

# Guide for Drafting a Declaration in Support of an Application for Asylum: Domestic Violence

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## Declaration

A Declaration is a document submitted in support of the application for asylum that explains the applicant's fear of returning to her country. It is a first-person narrative that further addresses the elements of the asylum claim, the applicant's family background, the conditions in her country, the harm she suffered, the future harm she will suffer if she returns to her country and her inability to relocate.

The Declaration is typically organized chronologically and thematically. When assisting a survivor of domestic violence draft a Declaration, you should ask her several questions about her experience to help her tell her story and highlight important details that support her application for asylum.

The Declaration should address all the requirements of an asylum claim based on domestic violence:

### **PERSECUTION**

- Domestic violence is a recognized form of persecution for persons seeking asylum in the United States.
- Domestic violence may include physical, sexual, emotional or financial harm. Can also include the deprivation of liberty and life necessities, such as food, housing, the ability to work, etc. The harm and suffering does not need to be physical.

### **PROTECTED CATEGORY**

- In domestic violence cases, applicants for asylum generally fall into the protected categories of “**particular social group**” or “**political opinion.**”

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- As clarified in the 2014 cases *Matter of M-E-V-G*<sup>1</sup> and *Matter of A-R-C-G* (2014), an applicant for withholding of removal [or asylum] seeking relief based on “membership in a **particular social group**” must establish that the group is:
  - (1) Composed of members who share a **common immutable characteristic**:
    - Gender can be a common immutable characteristic.<sup>2</sup>
    - Marital status where the individual is unable to leave the relationship can also be a common characteristic.<sup>3</sup> As held in *Matter of A-R-C-G*, “A range of factors could be relevant, including whether dissolution of a marriage could be contrary to religious or other deeply held moral beliefs or if dissolution is possible when viewed in light of religious, cultural, or legal constraints.” Both the applicant’s own experiences and background country information are taken into account.
  - (2) Defined with **particularity**; and
    - This means whether or not a group can be clearly defined
    - Domestic violence laws often define domestic relationships and domestic abuse- you use those to show that it is easily defined who is in a domestic relationship.
    - Examples: “married,” “women,” “unable to leave the relationship” in x society
    - For women unable to leave a relationship, cite to societal expectations about gender and subordination, as well as legal constraints regarding divorce and separation
  - (3) **Socially distinct within the society in question**.
    - Stress *society’s* perception of the applicant and other women like her.
    - Stress how women in the context of a relationship are treated differently than individuals harmed in other contexts.
    - Evidence to show that a group is social distinct includes “whether the society in question recognizes the need to offer protection to victims of domestic violence, including whether the country has criminal laws designed to protect domestic abuse victims, whether those laws are effectively enforced, and other sociopolitical factors.”<sup>4</sup>
- Examples of social groups that have been approved by immigration judges in domestic violence asylum cases include:
  - Mexican women in domestic partnerships that they are unable to leave.
  - Married women from Ghana who are opposed to male dominance.
  - Women of the Bulu tribe
  - Married Trinidadian women of Indian descent.
  - Women in El Salvador formerly married to gang members.
  - Members of the “Doe” family.<sup>5</sup>

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<sup>1</sup> *Matter of M-E-V-G*, 26 I&N Dec. 227 (BIA 2014)

<sup>2</sup> *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985).

<sup>3</sup> *Matter of A-R-C-G- et al.*, 26 I&N Dec. 388 (BIA 2014).

<sup>4</sup> *Matter of A-R-C-G- et al.*, 26 I&N Dec. 388 (BIA 2014).

<sup>5</sup>**Source:** Pro Se Manual: Asylum, Withholding of Removal, and Convention Against Torture Protection for Survivors of Domestic Violence, available at [http://cgrs.uchastings.edu/sites/default/files/CGRS%20DV%20Pro%20Se%20Manual\\_Final\\_2013.pdf](http://cgrs.uchastings.edu/sites/default/files/CGRS%20DV%20Pro%20Se%20Manual_Final_2013.pdf).

- Married women in Guatemala who are unable to leave their relationship.<sup>6</sup>

### **REASON FOR PERSECUTION**

- Applicant must demonstrate that her abuser was/is motivated to harm her because of her membership in a particular social group. It is often helpful to cite specific things the abuser said to the applicant that indicated his motive/attitude about women like the applicant.

### **INABILITY OR UNWILLINGNESS OF GOVERNMENT TO CONTROL ABUSER**

- Applicant must demonstrate that either:
  - She reported her abuse to the police or government but no one helped her; or
  - She did not report her abuse because reporting it would be a. futile (government would not protect her) and/or b. dangerous (put her at risk for harm by reporting).

### **APPLICANT'S WELL-FOUNDED FEAR**

- Applicant must demonstrate:
  - *Subjective fear*: She actually fears persecution in the future; her personal genuine fear of being subjected to domestic violence if she returns to her country of origin.
  - *Objective fear*: Her fear is objective and reasonable to others.

### **APPLICANT'S INABILITY TO RELOCATE WITHIN HOME COUNTRY**

- Applicant must demonstrate that is unsafe and/or unreasonable for her to relocate within her home country.

Before asking the applicant the series of questions, keep the following points in mind:

- The Declaration should be organized chronologically or thematically.
- Use numbered paragraphs and/or bold face point headings for readability.
- Include specific dates when possible.
- Describe specific examples, including specific names or first initials.
- The applicant's story should be told in a clear and compelling way.
- The applicant must demonstrate that the domestic violence she suffered is severe enough to be considered persecution, that the government is unable/unwilling to protect her from domestic violence, and that the domestic violence she experience was on account of/motivated by her membership in a particular social group (or other protected class). She must also show she has a well-founded fear of persecution if she returns to her home country, and her inability to relocate within her own country.

Below is a list of suggested questions to ask the applicant in drafting the Declaration:

### **Summary/Introduction/Overview**

*This section should be a **brief** introduction that crystallizes the most important facts in a client's story into one or two paragraphs (it should not be a lengthy summary).*

1. What is your full name?
2. Where are you from?

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<sup>6</sup> Matter of A-R-C-G- et al., 26 I&N Dec. 388 (BIA 2014).

3. Why do you fear returning to your country?
4. \*This section should include a summary of the asylum claim.

## Background

1. When were you born?
2. Where were you born (city and country)?
3. What is your nationality? Were you born with this nationality?
4. Where did you grow up?
5. What was your education like?
6. Do you identify as a member of a particular religious or tribal/ethnic/racial group?
7. What are your parents' names?
8. Do you have any siblings?
9. What jobs have you worked? When and where?
10. Are you married?
11. When did you get married?
12. Do you have children? How many? What are their ages? Where do they live now? Who is the father of each child?
13. Are you divorced/separated? When did you get divorced/separated?

## Country Conditions

*Applicant should explain the conditions of her country to make the connection between who she is and the harm she suffered as a woman belonging to a protected group. She should explain how women who are harmed in the context of a relationship are socially distinct.*

1. What are the general economic/political/environmental conditions in your country?
2. How are women you know treated by their husbands/boyfriends/partners in your community? How common is this treatment?
3. In your community, how are married women or women in relationships treated by their partners? Are they considered equals?
4. What is the status of married women in your society? What do men like your abuser believe about the role of women?
5. Did other women your family/community have a similar experience to you?
6. Do you know other women who have suffered domestic violence? What was their experience?
7. What is your community's reaction to domestic violence? Is it tolerated or taken seriously?
8. Is divorce socially acceptable? Are women able to initiate it? What does your community think of women who are divorced or separated?
9. Do you know how to initiate a divorce? Do you know any women who divorced successfully?
10. Are women generally able to change their economic, social, physical or other status when they are married or in relationships?
11. Can women make decisions on behalf of the family?
12. Do women suffering from domestic violence trust the police and if not, why?
13. How does the government (i.e. police) react to this treatment of women and allegations of domestic violence?

## Harm Suffered

*Applicant should describe the domestic violence she suffered and why it happened. Often clients may not be familiar with the concept of domestic violence, or do not identify their abuse as domestic violence unless it was severe and physical. Thus, it is important to explain to the client the various types/manifestations of domestic violence, the cycle of domestic violence, the abuser's use of power and control and the criminalization of domestic violence throughout much the world.*

1. When did the domestic violence begin in your relationship? How and where did it begin?
2. What injuries—emotional, sexual, physical, and financial—did you suffer?
3. Was your abuser jealous?
4. Did your abuser have a temper?
5. Did your abuse worsen when your abuser was intoxicated?
6. Did your abuser ever threaten you?
7. How long passed between the first instance and second instance of harm?
8. Are there any instances of abuse do you distinctly remember? What are they?
9. Was there a pattern of abuse?
10. What are the first, worst and last incidences of violence or threats?
11. Were you children abused or threatened?
12. Did other people witness or know about your abuse? How did they react? Why?
13. Did your abuser isolate you from your friends and family?
14. Did your abuser regularly make you feel guilty or like the harm he inflicted on you was your fault?
15. Did your abuser order you to do what he wanted? Did he expect you to always obey him?
16. Did your abuser control you? Did he control your actions, where you went or who you spoke to?
17. Did your abuser have any rules about what you could and couldn't do? Did he have any rules about whom you could see and couldn't see? Did he give you a curfew? What happened if you broke one of his rules?
18. When were you the most afraid?
19. Were you ever afraid of being killed? Why? When?
20. How did living in fear affect you physically and emotionally? How did it affect your children? How did it affect your job?
21. Did you ever have to go to the hospital or clinic after an incident of abuse? If not, why?
22. If you ever sought medical treatment after an incident of abuse, what treatment did you receive? Do you have any records of the treatment or prescriptions you were given?
23. Why did your abuse target you and harm you?
24. Did your abuser believe you would never leave him? Why?
25. Did your abuser harm you when you refused to do what he wanted? Did he feel like he had the right to hurt you? If yes, how do you know he felt that way?
26. Did your abuser ever say why he was harming you?
27. Did your abuser ever make comments about you or other women that showed his beliefs about the role of women in relationship, the family or the society?
28. What were you abuser's attitudes towards women?

29. Did your abuser consider women to be property? Did he consider wives to be servants to men?
30. Does your abuser respect women? How do you know?
31. Did your abuser hurt you in order to establish his dominance?
32. Did your abuser believe it was socially acceptable to hurt because you are a woman or because of your status in the relationship?
33. Why are women like you targeted by husbands or men as subjects of violence?
34. Do you have any permanent injuries—physical, emotional or other—as a result of the abuse?
35. What are the long-term effects of suffering abuse?
36. Did you report the abuse to the police or another government authority? Who did you report to? Did they take notes when you made the report? Did they say they would speak to your abuser?
37. What occurred after your reported the abuse to the authorities?
38. Did the police or government authorities offer you any help?
39. Did the police or authorities speak to your abuser?
40. Did reporting the incident to the police subject you to further harm (from your abuser or someone else) or did you think it would subject you to further harm?
41. Was the government or police able to protect you?
42. How do the government and police respond to domestic violence generally? Do you know other women who reported suffering domestic violence to the police or government? What was their experience?
43. Did you suffer any other harm apart from domestic violence?

### **Decision to Leave Home Country and Travel to the United States**

*Applicant should explain her decision to leave her country.*

1. When and why did you decide to leave your country?
2. Why did you decide to come to the United States?
3. When did you leave your home? On what date did you leave your country? How did you travel (bus, car, foot, plane, train, etc.)? Who did you come with?
4. How long did it take you to get to the United States?
5. What was the journey like?
6. On what date did you arrive in the United States?
7. What happened when you arrived in the United States? Where did you go?
8. Have you been to the United States before?
9. Did you travel through any other countries en route? If so, why did you not stay in those countries or seek asylum or help there?

### **Future Harm**

*Applicant should explain why she fears future persecution if she returns to her home country.*

1. Who are you afraid of if you return to your country? Why do you fear him?
2. Has your abuser ever threatened you or your family members?
3. Are you afraid of any of your abuser's associates as well?
4. What type of abuse do you fear if you return?
5. Why do you fear returning to your home country?

6. Is your abuser aware that you fled the country?
7. What do you think your life would be like if you returned to your country?
8. Do you know anyone who has also suffered from domestic violence or has had a similar situation to yours? What happened to them?

### **Relocation and Changed Circumstances**

*Applicant should explain why it is unreasonable or unsafe for her to relocate within her own country.*

1. Is government protection available in another part of the country?
2. If government protection is available in another part of your home country, why would it be unreasonable for you to move to another part of the country in your circumstances?
3. Are there jobs in the safe parts of the country? Would you be able to support you and your children if you moved there? Are women allowed to work without the permission of their husbands in your country?
4. Are there other forms of threat in other parts of the country, such as war?
5. Do you have family or friends living in safe parts of the country? If not, would it be dangerous for you to live there alone?
6. Would your abuser find you if you moved?
7. Have you tried to move before? What happened?
8. How do you think your abuser would find you?
9. How does the government react to other forms of violence in comparison with domestic violence?
10. Are women suffering from domestic violence scared to report their abuse to the authorities?
11. What other types of harm would you suffer if you returned to your country?

### **Discretion**

*Applicant should demonstrate why she is a responsible person who should be granted asylum.*

1. Are you involved in the community? Do you attend school, a church group, or another participates in another community activity?
2. What are your children's ages?
3. How do you want to help your children?
4. How do you hope to contribute positively to society?
5. Are you a hard worker?
6. If you have committed a crime, have you changed since then? Do you have examples showing that you are law-abiding responsible person?

**U.S. DEPARTMENT OF HOMELAND SECURITY  
CITIZENSHIP & IMMIGRATION SERVICES  
ARLINGTON, VA**

\_\_\_\_\_) )  
In the Matter Of: ) )  
[CLIENT FULL NAME], ) ) A# \_\_\_\_\_  
Applicant. ) )  
\_\_\_\_\_) )

**Declaration of [FULL NAME] in support of  
Form I-589, Application for Asylum**

I, [FULL NAME], hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge and belief, and that I incorporate the following statements into my application for asylum (Form I-589).

**Summary:**

The Declaration should begin with a brief introduction that lays out the basis of the asylum claim. It should describe the applicant's fear of returning to her country, addressing the following requirements of the asylum claim: 1) persecution; 2) protected category; 3) reason for the persecution; 4) inability and unwillingness of government to control the abuser; 5) the applicant's well-founded fear; 6) her inability to relocated within her home country; 7) an explanation for any o the applicable bars to her application; and 8) why she should be granted asylum in the discretion of the judge.

**Full Declaration:**

The applicant's full Declaration goes here. Below are examples of the headings used in the paragraphs of one applicant's Declaration. The declaration was in chronological order with thematic headings. The thematic headings are samples, but they should be adapted and made as descriptive as possible based on the specific facts of your client's story. It was composed of 73 numbered paragraphs, grouped under the following 27 headings:

**Meeting & Marrying HUSBAND**

1. [PARAGRAPH TEXT].
2. [PARAGRAPH TEXT].
3. [PARAGRAPH TEXT].
4. [PARAGRAPH TEXT].
5. [PARAGRAPH TEXT].



### **Verbal & Physical Abuse by HUSBAND's Family**

6. [PARAGRAPH TEXT].
7. [PARAGRAPH TEXT].
8. [PARAGRAPH TEXT].

### **The Beginnings of HUSBAND's Abuse**

9. [PARAGRAPH TEXT].
10. [PARAGRAPH TEXT].

### **HUSBAND's Escalating Verbal Abuse & his Sister's Visit**

11. [PARAGRAPH TEXT].
12. [PARAGRAPH TEXT].
13. [PARAGRAPH TEXT].
14. [PARAGRAPH TEXT].

### **HUSBAND's Physical Abuse Begins**

15. [PARAGRAPH TEXT].
16. [PARAGRAPH TEXT].

### **HUSBAND's Beating with an Electrical Cord**

17. [PARAGRAPH TEXT].
18. [PARAGRAPH TEXT].

### **My Attempts to take a Family Vacation**

19. [PARAGRAPH TEXT].
20. [PARAGRAPH TEXT].

### **My Grandfather's Funeral & Public Humiliation Coupled with a Private Beating**

21. [PARAGRAPH TEXT].

### **Vacation in the U.S.**

22. [PARAGRAPH TEXT].
23. [PARAGRAPH TEXT].

### **The Rapes Begin**

24. [PARAGRAPH TEXT].
25. [PARAGRAPH TEXT].
26. [PARAGRAPH TEXT].

### **My Near Miscarriage due to HUSBAND's Abuse**

27. [PARAGRAPH TEXT].

### **My Futile Attempt to Report HUSBAND's Abuse to the Police**

28. [PARAGRAPH TEXT].
29. [PARAGRAPH TEXT].
30. [PARAGRAPH TEXT].

### **HUSBAND's Abuse Continues**

31. [PARAGRAPH TEXT].

32. [PARAGRAPH TEXT].

### **HUSBAND Beats me while I'm Pregnant**

33. [PARAGRAPH TEXT].

34. [PARAGRAPH TEXT].

35. [PARAGRAPH TEXT].

36. [PARAGRAPH TEXT].

### **Unsuccessfully Seeking Police Protection Again**

37. [PARAGRAPH TEXT].

38. [PARAGRAPH TEXT].

### **HUSBAND Attacks my Family in their Village**

39. [PARAGRAPH TEXT].

40. [PARAGRAPH TEXT].

41. [PARAGRAPH TEXT].

### **HUSBAND Tries to Kidnap our Children**

42. [PARAGRAPH TEXT].

43. [PARAGRAPH TEXT].

44. [PARAGRAPH TEXT].

### **HUSBAND Sends Others to Threaten Me**

45. [PARAGRAPH TEXT].

46. [PARAGRAPH TEXT].

47. [PARAGRAPH TEXT].

48. [PARAGRAPH TEXT].

### **HUSBAND's Stalking and False Criminal Charges**

49. [PARAGRAPH TEXT].

50. [PARAGRAPH TEXT].

### **HUSBAND's Attempts to Discredit Me in My Workplace**

51. [PARAGRAPH TEXT].

52. [PARAGRAPH TEXT].

### **HUSBAND's Manipulation and Deception Continues**

53. [PARAGRAPH TEXT].

54. [PARAGRAPH TEXT].

55. [PARAGRAPH TEXT].

### **HUSBAND sends People to Find me in Imo**

56. [PARAGRAPH TEXT].

57. [PARAGRAPH TEXT].

**My Diminishing Hope for a Better Future**

58. [PARAGRAPH TEXT].

59. [PARAGRAPH TEXT].

60. [PARAGRAPH TEXT].

**Returning to Nigeria**

61. [PARAGRAPH TEXT].

62. [PARAGRAPH TEXT].

**Another Vacation to the U.S.**

63. [PARAGRAPH TEXT].

64. [PARAGRAPH TEXT].

65. [PARAGRAPH TEXT].

**Realizing that I Cannot Return to Nigeria**

66. [PARAGRAPH TEXT].

67. [PARAGRAPH TEXT].

68. [PARAGRAPH TEXT].

**My Struggles for Safety and a New Life Here**

69. [PARAGRAPH TEXT].

70. [PARAGRAPH TEXT].

71. [PARAGRAPH TEXT].

72. [PARAGRAPH TEXT].

73. [PARAGRAPH TEXT].

\_\_\_\_\_  
\_\_\_\_\_  
APPLICANT

Date

**CERTIFICATE OF TRANSLATION**

THIS IS THE LAST PARAGRAPH of the Declaration. If applicable, it should say, “This statement has been read to me in \_\_\_\_, my native language, and I understood it.” The translator who reads the statement aloud in that language should also sign a certificate of translation, please feel free to use the format below.

I, \_\_\_\_\_, do hereby certify that I am competent in both the English and [NAME OF LANGUAGE] languages and that I have translated the foregoing document from the original English into the [NAME OF LANGUAGE] language to [CLIENT FULL NAME] who has confirmed that she understands the content of this

document and believes it to be true and correct to the best of her knowledge, information, and belief.

\_\_\_\_\_

Name

Date

<Signature line>\_\_\_\_\_